

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT  
SENTENCE BY A PERSON IN FEDERAL CUSTODY

<b>United States District Court</b>		District Northern District of Ohio	
Name (under which you were convicted): Tamela M. Lee		Docket or Case No.: 1:15-cr-00445-1-	
Place of Confinement: FMC Carswell, Fort Worth, Texas		Prisoner No.: 62504060	
UNITED STATES OF AMERICA		Movant (include name under which convicted)	
Plaintiff		V. Tamela M. Lee, Defendant	

**MOTION**

1. (a) Name and location of court which entered the judgment of conviction you are challenging:  
Northern District of Ohio

(b) Criminal docket or case number (if you know): 1:15-cr-00445-1 /

2. (a) Date of the judgment of conviction (if you know): February 10, 2017

(b) Date of sentencing: August 7, 2017

3. Length of sentence: 60 months

4. Nature of crime (all counts): Counts 1-4: Conspiracy to commit Honest Services mail and wire fraud, Honest Services mail fraud Hobbs Act Conspiracy. Hobbs Act Extortion, making false statement and obstruction of justice.

5. (a) What was your plea? (Check one)

(1) Not guilty ☒

(2) Guilty ☐

(3) Nolo contendere (no contest) ☐

(b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or what did you plead guilty to and what did you plead not guilty to?

N/A

6. If you went to trial, what kind of trial did you have? (Check one)

Jury ☒

Judge only ☐

7. Did you testify at a pretrial hearing, trial, or post-trial hearing?

Yes ☐

No ☒

8. Did you appeal from the judgment of conviction?

Yes ☒

No ☐

FILED  
2020 APR -3 PM 2:45  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
CLEVELAND

9. If you did appeal, answer the following:

- (a) Name of court: United States Court of Appeals for 6th circuit  
 (b) Docket or case number (if you know): 17-3868  
 (c) Result: Affirmed  
 (d) Date of result (if you know): Mar 18, 2019  
 (e) Citation to the case (if you know): \_\_\_\_\_  
 (f) Grounds raised: \_\_\_\_\_

After McDonnell -v- U.S. can a county official constitutionally be convicted of Honest Services and Hobbs Act violations merely for agreeing to contact, and contacting officials at the federal and local levels on behalf of constituents. Insufficiency of the Indictment and Trial evidence.

- (g) Did you file a petition for certiorari in the United States Supreme Court? Yes ☒ No ☐

If "Yes," answer the following:

- (1) Docket or case number (if you know): 19-6076  
 (2) Result: cert denied  
 (3) Date of result (if you know): Jan 10, 2020  
 (4) Citation to the case (if you know): \_\_\_\_\_  
 (5) Grounds raised: Defendant argues that counts 1-4 be vacated per McDonnell decision. Counts 5-6 be vacated

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications, concerning this judgment of conviction in any court?

Yes ☐ No ☒

11. If your answer to Question 10 was "Yes," give the following information:

- (a) (1) Name of court: \_\_\_\_\_  
 (2) Docket or case number (if you know): \_\_\_\_\_  
 (3) Date of filing (if you know): \_\_\_\_\_  
 (4) Nature of the proceeding: \_\_\_\_\_  
 (5) Grounds raised: \_\_\_\_\_

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐

No ☐

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: \_\_\_\_\_

(2) Docket of case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: \_\_\_\_\_

(5) Grounds raised: \_\_\_\_\_

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐

No ☐

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition:

Yes ☐

No ☐

(2) Second petition:

Yes ☐

No ☐

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

**GROUND ONE:** SEE ATTACHED

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

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**(b) Direct Appeal of Ground One:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why:

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**(c) Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☐

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

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Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

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(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

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13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:  
 Ineffective Assistance of Counsel - requires expansion of the record and can not be raised in direct appeal  
 denied due process and Right to Testify - Ineffective Assistance  
 Prosecutorial Misconduct/Misstatement of the facts - Requires expansion of the record for facts not in evidence.  
 Prosecution Violated Lee's Civil Rights - Counsel believed case would be vacated based upon McDonnell and no further discussion was made.  
 Ineffective Assistance at Sentencing- I was not aware that my sentence was based upon erroneous claims of monetary amounts until I read the appeal brief. Defendant was not informed of this by counsel

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the you are challenging? Yes ☐ No ☒

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

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15. Give the name and address, if known, of each attorney who represented you in the following stages of the you are challenging:

(a) At the preliminary hearing:

Timothy Ivey, Darin Thompson - Federal Defenders Office Cleveland

(b) At the arraignment and plea:  
same

(c) At the trial:  
same

(d) At sentencing: Kushner AND HAMED

CLEVELAND, OHIO

(e) On appeal: Jerome Madden, Virginia Hoptman  
1455 Pennsylvania Ave. NW, Ste 400 Washington, D.C. 20004

(f) In any post-conviction proceeding:

(g) On appeal from any ruling against you in a post-conviction proceeding:

16. Were you sentenced on more than one court of an indictment, or on more than one indictment, in the same court and at the same time? Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed: \_\_\_\_\_

(c) Give the length of the other sentence: \_\_\_\_\_

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐

18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.\*

*SCOTUS CERT DENIED 1/10/20*

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\* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of –

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

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Therefore, movant asks that the Court grant the following relief: Defendant Asks that the court vacate the sentence on counts 1-6 or a new trial.

\_\_\_\_\_  
or any other relief to which movant may be entitled.

*N/A*

\_\_\_\_\_  
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on \_\_\_\_\_  
(month, date, year)

Executed (signed) on March 3, 2020 (date)

*Tamela M. Lee*  
\_\_\_\_\_  
Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.